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Tables and Index 2002

Index Editor

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THE ALL ENGLAND LAW REPORTS

Tables and Index 2002

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Introduction

The Tables and Index 2002 covers all the cases reported in the volumes of the All England Law Reports for 2002, including the European Cases volume and Commercial Cases volumes. The index is a continuation of the Consolidated Tables and Index 1936–2001. For information concerning the use of this index readers should refer to the introductions to volumes 1 and 2 of the 1936–2001 index.

The tables and index consist of five sections:

- a table of cases reported and judicially considered; this table lists alphabetically all cases reported in the All England Law Reports in 2002, and in addition it lists all cases of any date which have been reported in the All England Law Reports and the All England Law Reports Reprint and which were judicially considered, ie applied, distinguished, overruled and so on, in cases reported during 2002
- a table of practice directions and notes issued in 2002
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- a table of words and phrases judicially considered in 2002
- a subject index, including a full system of cross-references, of all cases reported in 2002

The Tables and Index 2002 together with the three volumes of the Consolidated Index 1936–2001 provide a complete index of cases reported in the All England Law Reports from 1936 to the end of 2002.

The index is separate from the 2002 volumes of the All England Law Reports and should therefore *not* be sent in for binding with the loose parts of the reports.

January 2003

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 Reversed [1972] **2** 561, HL
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 Affirmed on another ground [1963] **2** 575, HL

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 Considered, *Clibbery v Allan* [2002] **1** 865

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 Reversed [1994] **2** 385, HL

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 Leave to appeal given 4 April 2001, HL
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 Approved, R v Smith (David) [2002] **1** 366
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 Reversed [1987] **3** 661, CA
 Considered, Terry v East Sussex Coroner [2002] **2** 141
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 Affirmed [1990] **2** 409, CA
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 Leave to appeal given 1 November 2001, HL
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 Distinguished, R v Lichniak [2002] **4** 1122

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 Reversed [1999] **3** 400, HL
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 Leave to appeal given 7 June 2001, HL
 Affirmed on other grounds [2002] **4** 131, HL

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 Applied, Runa Begum v Tower Hamlets London BC [2002] **2** 668
 Considered, R (on the application of McLellan) v Bracknell Forest BC [2002] **1** 899
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 Leave to appeal given 25 April 2002, HL
 Affirmed [2002] **4** 593, HL

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 Affirmed [2002] **1** 776, CA
 Reversed [2002] **3** 1, HL

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 Reversed [2002] **2** 625, CA
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 Reversed [1956] **1** 209, CA
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 Considered, *Loutchansky v Times Newspapers Ltd (No 2)* [2002] **1** 652

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 Approved, *Medcalf v Mardell* [2002] **3** 721
 Considered, *Brown v Bennett* [2002] **2** 273

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 Considered, *Pennington v Waine* [2002] **4** 215

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 Considered, *Feasey v Sun Life Assurance Co of Canada* [2002] **2** **Comm** 492

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 Reversed [2001] **2 Comm** 721, CA
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Appeal on question of law—Claimant seeking to appeal against award made in respect of agreements governed by Indian law—Arbitration heard in London—Parties agreeing that relevant Indian law the same as English law—Arbitrators applying principles of construction established by English authorities to Indian contract—Whether appeal from award on question of law raising question of law of England and Wales—Arbitration Act 1996, s 82(1). **Reliance Industries Ltd v Enron Oil and Gas India Ltd** [2002] 1 Comm 59, QBD.

Judge refusing leave to appeal—Judge stating questions not of general public importance and that decisions of arbitrators not obviously wrong or open to serious doubt—Judge refusing application for ‘full reasons’ for decision—Whether judge obliged to give full reasons for refusal of leave to appeal from arbitration award—Arbitration Act 1996, s 69—Human Rights Act 1998, Sch 1, Pt I, art 6. **Mousaka Inc v Golden Seagull Maritime Inc** [2002] 1 726, [2001] 2 Comm 794, QBD.

Permission to appeal against award—

Appeal to Court of Appeal—Jurisdiction—Judge failing to give reasons for refusal of permission to appeal to Court of Appeal—Whether judge under duty to give reasons—Whether Court of Appeal having jurisdiction to grant permission to appeal—Arbitration Act 1996, s 69(3)—Human Rights Act 1998, Sch 1, Pt I, art 6. **North Range Shipping Ltd v Seatrans Shipping Corp** [2002] 4 390, [2002] 2 Comm 193, CA.

Setting aside award—

Jurisdiction—Jurisdiction to make award—Evidence permissible on application to set aside award—Whether evidence confined to that adduced before arbitrator—Arbitration Act 1996, s 67. **Electrosteel Castings Ltd v Scan-Trans Shipping & Chartering Sdn Bhd** [2002] 2 Comm 1064, QBD.

Time limit for application—Relevant considerations when application for setting aside award made out of time—Arbitration Act 1996, ss 24(1)(d), 67, 68, 79, 80(5)—CPR 3.12. **Kalmneft JSC v Glencore International AG** [2002] 1 76, [2001] 2 Comm 577, QBD.

Jurisdiction—

Arbitrator. *See* Arbitrator—Jurisdiction, *above*.

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Practice—

Application for order requiring witnesses to be examined for purposes of foreign arbitration—

Court making order—Witnesses applying to set order aside—Procedural law of arbitration differing from English law—Application not showing that evidence of witnesses likely to have important bearing on outcome of arbitration—Whether making of order appropriate—Arbitration Act 1996, s 44. **Commerce & Industry Co of Canada v Certain Underwriters at Lloyds of London** [2002] 2 Comm 204, QBD.

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Generally. *See* Award—Setting aside award, *above*.

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Circumstances in which stay will be granted—

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Application for summary judgment in event that application for stay unsuccessful—Whether step in proceedings—Whether agreement that ‘any dispute’ be settled by arbitrators providing for arbitration of claims which could not have been in contemplation of parties—Arbitration Act 1996, s 9(3). **Capital Trust Investments Ltd v Radio Design TJ AB** [2002] 2 159, [2002] 1 Comm 514, CA.

ARBITRATOR

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ARREARS

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Forfeiture of lease—

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Auctioneer's liability. *See* **Conversion** (Auctioneer's liability).

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Joint account—

Uncle and nephew—Account operated solely by uncle—Death of uncle—Whether deceased intending to benefit joint account holder—Whether presumption of resulting trust rebutted. **Aroso v Coutts & Co** [2002] 1 Comm 241, Ch D.

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Sub-participation agreement—

Construction—Bank entering into sub-participation agreement with participating bank—Bank becoming insolvent—Whether proceeds held by participating bank under agreement held on trust for estate—Whether participating bank obtaining assignment of proprietary interest in proceeds. **Lloyds TSB Bank plc v Clarke** [2002] 2 Comm 992, PC.

Documentary credit—

Irrevocable credit—

Duty of bank—Documents presented complying on their face but including certificates signed without authority—Bank arguing documents a 'nullity'—Whether 'nullity' exception existing in addition to 'fraud' exception to obligation of bank to pay on presentation of apparently complying documents—Duty of care of beneficiary in connection with presentation of documents. **Montrod Ltd v Grundkötter Fleischvertriebs-GmbH** [2002] 3 697, [2002] 1 Comm 257, CA.

Payment—Retrocession agreement made conditional upon provision of letter of credit—Agreement not to draw down under letter of credit without prior agreement of applicant to payment of reinsurance claim—Applicant acknowledging indebtedness to reinsurer—Whether refusal to make payment under letter of credit contrary to principle of autonomy—Whether acknowledgement of indebtedness satisfying condition of prior agreement of applicant to payment of claim. **Sirius International Insurance Corp (Publ) v FAI General Insurance Co Ltd** [2002] 2 Comm 745, Ch D.

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Letter of credit requiring presentation of certificates—Terms requiring bank to accept documents produced by reprographic, automated or computerised systems if marked as original—Bank rejecting documents because not marked as original—Bank stating that documents not to be returned to claimant or held to order but to be released in the event of discrepancies being accepted without notice to the claimant—Whether bank entitled to reject documents on ground of non-originality—Whether bank in breach of requirement to return documents or hold them to order of presenter—Uniform Customs and Practice for Documentary Credits 500, arts 14(d), 20(b). **Credit Industriel et Commercial v China Merchants Bank** [2002] 2 Comm 427, QBD.

Joint account. *See* Account—Joint account, *above*.

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Agreements preventing, restricting or distorting competition. *See* **European Community** (Rules on competition—Agreements preventing, restricting or distorting competition—Professional body—Bar association).

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Holder in due course—

Proceeds of cheque wrongly paid to third parties—Agent authorised to deliver cheque authorising third party to effect delivery—Whether acts of agent affecting authority of drawer of cheque—Bills of Exchange Act 1882, s 21(2). **Dextra Bank & Trust Co Ltd v Bank of Jamaica** [2002] **1 Comm** 193, PC.

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BREACH OF CONTRACT

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International carriage—

Passenger sustaining damage at terminal when being assisted by carrier's agent—Proceedings issued more than two years after contract of carriage—Whether Warsaw Convention applicable—Carriage by Air Act 1961, s 5, Sch 1, art 29. **Phillips v Air New Zealand** [2002] **1 Comm** 801, QBD.

Liability of carrier—

International convention imposing liability on carrier for 'bodily injury' to passenger—Whether 'bodily injury' including purely mental injury—Carriage by Air Act 1961, Sch 1, Pt 1, art 17. **Morris v KLM Royal Dutch Airlines** [2002] **2** 565, [2002] **1 Comm** 385, HL.

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Carriage of goods—

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Family proceedings. *See* **Family proceedings** (Chambers proceedings).

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Child in need—

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Deemed day of service—

Rule of procedure establishing deemed day of service of documents—Whether irrebuttability of deemed day of service incompatible with right of access to court—Whether Saturday and Sunday excluded from calculation of deemed day of service by first class post—Human Rights Act 1998, Sch 1, Pt I, art 6—CPR 2.8, 6.7(1). **Anderton v Clwyd CC** [2002] **3** 813, CA.

Dispensing with service—

Proper approach to exercise of power to dispense with service of claim form in cases of deemed late service—CPR 6.9. **Wilkey v BBC** [2002] **4** 1177, CA.

CLAIM FORM (cont)—

Service (cont)—

Dispensing with service (cont)—

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Service out of the jurisdiction—

Claimant issuing claim form marked 'Not to be served out of the jurisdiction'—Claimant applying for permission to serve out of jurisdiction before expiry of six-month period for such service but after expiry of four-month period for service of claim form within jurisdiction—Whether application governed by general provisions of CPR or by special provisions relating to service out of jurisdiction—CPR Pt 6, section III, 7.6(3). **Anderton v Clwyd CC** [2002] 3 813, CA.

CLERICAL ERROR

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COMPANY

Administration order—

Effect—

Requirement of leave to commence proceedings against company—Railway administration order—Application to Rail Regulator for directions requiring company owning track to enter into access contract with freight train operator to use track—Whether commencement and continuation of procedure for seeking such directions requiring leave of court or consent of special railway administrators—Insolvency Act 1986, s 11(3)(d)—Railways Act 1993, ss 4, 17, Sch 6, para 2(b). **Re Railtrack plc (in railway administration)** [2002] 4 435, CA.

Requirement of leave to commence proceedings against company—Railway administration order—Application to Rail Regulator for directions requiring company owning track to enter into access contract with freight train operator to use track—Whether commencement and continuation of procedure for seeking such directions requiring leave of court or consent of special railway administrators—Insolvency Act 1986, s 11(3)(d)—Railways Act 1993, ss 4, 17, Sch 6, para 2(b). **Re Railtrack plc (in railway administration)** [2002] 3 140, Ch D.

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Right to inspect reports—Restriction order—Circumstances in which order may be made—Insolvency Rules 1986, rr 2.2, 7.31(5). **Practice Statement** [2002] 3 95, Ch D.

Charge—

Floating charge—

Company in administration—Effect of non-registration of charge—Engineering contract giving employer right to sell contractor's on-site plant in event of default in satisfaction of sums due from contractor—Whether right constituting floating charge—Whether unregistered floating charge void against company in administration or only against administrator—Companies Act 1985, s 395(1)—Institution of Civil Engineers Conditions of Contract (5th edn), cl 63. **Smith (Administrator of Cosslett (Contractors) Ltd) v Bridgend County BC** [2002] 1 292, HL.

Conflict of laws. *See* **Conflict of laws** (Company).

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Parties—

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Loan to director—

Whether unlawful loan by company to director automatically making director constructive trustee—Companies Act 1985, ss 330, 341. **Re Ciro Citterio Menswear plc (in administration)** [2002] 2 717, Ch D.

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Minority shareholder. *See* Minority shareholder—Representative action—Foreign company, *below*.

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Minority shareholder—

Foreign company—

Conflict of laws. *See* **Conflict of laws** (Company—Foreign company—Minority shareholder).

Personal action—

Reflective loss—Principle precluding shareholder from recovering loss reflective of company's loss and in respect of which it had cause of action—Whether principle precluding shareholder from recovering damages for diminution in value of shareholding where wrongdoer's breach of duty to shareholder disabling company from pursuing its own cause of action. **Giles v Rhind** [2002] 4 977, CA.

Representative action—

Foreign company—Whether English court having jurisdiction to hear derivative claim in relation to foreign company—Whether appropriate forum for determining shareholders' entitlement to bring derivative claim to be taken into account by English court when considering appropriate forum for trial of action—CPR 6.20(3), 19.9. **Konamaneni v Rolls-Royce Industrial Power (India) Ltd** [2002] 1 979, [2002] 1 Comm 532, Ch D.

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Use of name—

Bond—Deed—Whether bond or deed unenforceable if body of document referring to company by its trading name rather than registered name—Companies Act 1985, s 36A. **OTV Birwelco Ltd v Technical and General Guarantee Co Ltd** [2002] 4 668, [2002] 2 Comm 1116, QBD.

Practice—

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Register of members—

Disclosure—

Court having statutory power to compel company to send copy of register of members' names to person whose request for such a copy had been refused by company—Whether court having discretion to refuse application for such an order—Factors governing exercise of discretion—Companies Act 1985, s 356(6). **Pelling v Families Need Fathers Ltd** [2002] 2 440, CA.

Scheme of arrangement—

Companies Court practice. *See* **Practice** (Companies Court—Schemes of arrangement).

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Minority shareholder—

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Parties to contract. *See* **Contract** (Parties—Unformed company).

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Expenses of liquidation—

Statutory provision establishing priority of payment of 'expenses' of liquidation—Whether liability falling within provision payable as expense of liquidation only if satisfying test of fairness—Insolvency Rules 1986, r 4.218(1). **Re Toshoku Finance UK plc (in liq)** [2002] 3 961, HL.

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Scheme—

Statutory and ex gratia schemes compensating persons whose convictions had been quashed on appeal out of time or who had been wrongly convicted—Whether compensation under statutory scheme payable only to those ultimately proved innocent—Whether Secretary of State's determination incompatible with claimant's right to fair hearing—Whether Secretary of State entitled to depart from policy on ex gratia scheme—Criminal Justice Act 1988, s 133—Human Rights Act 1998, Sch 1, Pt I, art 6. **R (on the application of Mullen) v Secretary of State for the Home Department** [2002] 3 293, QBD.

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Application to Court of Appeal for permission to appeal—Manner in which application to be presented—Competition Act 1998, s 60. **Napp Pharmaceutical Holdings Ltd v Director General of Fair Trading** [2002] 4 376, CA.

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Generally. *See* **Practice** (Company of action).

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- Insurance contract—
 - Construction. *See* **Insurance** (Contract of insurance—Construction of terms—Condition precedent).
- Contract—
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 - Costs. *See* **Solicitor** (Costs—Conditional fee agreement).

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 - Children proceedings. *See* **Family proceedings** (Confidential information in children proceedings).
- Injunction against disclosure of information—
 - Interim injunction—
 - Application for interim injunction restraining publication by press of confidential information which would allegedly infringe claimant's privacy—Guidelines—Human Rights Act 1998, s 12, Sch 1, Pt I, arts 8, 10. **A v B (a company)** [2002] 2 545, CA.
 - Newspaper intending to publish articles relating to claimant's extra-marital affairs—
 - Whether law affording protection of confidentiality to facts concerning sexual relations outside marriage—Human Rights Act 1998, s 12, Sch 1, Pt I, art 10. **A v B (a company)** [2002] 1 449, QBD.
- Medical practitioner—
 - Disclosure of confidential information—
 - Generally. *See* **Medical practitioner** (Doctor and patient—Disclosure of confidential information).

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- Generally. *See* **Sentence** (Confiscation order).

CONFLICT OF INTEREST

- Jurisdiction—
 - Civil and commercial matters—
 - Contract of employment—Jurisdiction over individual contracts of employment—Claimant alleging breach of contractual duty and conspiracy against defendant employee—Whether statutory provision that employer might bring proceedings only in domicile of employee applicable—Whether court having power to determine under statutory provision each claim included in claim form—Whether permission to serve out of jurisdiction required—Whether service effective—Council Directive EC 44/2001, section 5, art 20—CPR 6.19(1A). **Swithenbank Foods Ltd v Bowers** [2002] 2 Comm 974, QBD.
- Solicitor—
 - Duty. *See* **Solicitor** (Duty—Conflict of interest).

CONFLICT OF LAWS

- Company—
 - Foreign company—
 - Minority shareholder—Representative action—Whether English court having jurisdiction to hear derivative claim in relation to foreign company—Whether appropriate forum for determining shareholders' entitlement to bring derivative claim to be taken into account by English court when considering appropriate forum for trial of action—CPR 6.20(3), 19.9. **Konamaneni v Rolls-Royce Industrial Power (India) Ltd** [2002] 1 979, [2002] 1 Comm 532, Ch D.
- Contract—
 - Proper law of contract—
 - Service out of the jurisdiction—Action on contract governed by English law. *See* **Practice** (Service out of the jurisdiction—Action on contract governed by English law).
 - Testing and consultancy services—Contract between two English companies—Defendant's main office in England—Parties anticipating that contract to be performed through defendant's Scottish office—No contractual term stipulating proper law of contract—Whether proper law of contract English or Scottish law—Contracts (Applicable Law) Act 1990, Sch 1, art 4(2)(5). **Ennstone Building Products Ltd v Stanger Ltd** [2002] 2 Comm 479, CA.
- Damages—
 - Tort. *See* Tort—Damages, *below*.
- Foreign judgment—
 - Registration in England—
 - Setting aside registration—Judgment in default—Defendant alleging time period allotted for filing notice of appearance not sufficient to arrange defence—Default judgment given by court in absence of defendant filing notice of appearance—Whether relevant period time allowed to enter appearance or time between service and issue of default judgment—Civil Jurisdiction and Judgments Act 1982, Sch 1, art 27(2). **TSN Kunststoffrecycling GmbH v Jurgens** [2002] 1 Comm 282, CA.
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 - Revenue law—
 - Enforcement—Applicant having paid Indian revenue assessment—Applicant claiming respondent liable to pay cost of assessment under Indian restitution law—Respondent claiming applicant relying on foreign revenue law—Whether applicant seeking indirect enforcement of foreign revenue law. **Air India Ltd v Caribjet Inc** [2002] 2 Comm 76, QBD.

CONFLICT OF LAWS (cont)—

Foreign proceedings—

Restraint of foreign proceedings—

Circumstances in which court will restrain prosecution of foreign proceedings—Claimant in multiple actions applying to restrain foreign proceedings—Defendants based overseas—Whether court having territorial jurisdiction to restrain defendants—Whether litigation subject to claimant's pursuit of anti-suit injunction despite lack of formal counterclaim—Whether clear need to protect existing English proceedings present—CPR 20.4. **Glencore International AG v Exter Shipping Ltd** [2002] 2 Comm 1, CA.

Circumstances in which court will restrain prosecution of foreign proceedings—Claimant seeking injunction from English court to restrain proceedings in New York arising out of alleged contractual fraud—Defendants party to English jurisdiction clause—Alleged co-conspirators of claimant defendants in New York proceedings—Whether English court should grant anti-suit injunction in respect of New York proceedings—Supreme Court Act 1981, s 37(1). **Donohue v Armco Inc** [2002] 1 749, [2002] 1 Comm 97, HL.

Jurisdiction—

Challenge to jurisdiction—

Civil and commercial matters—English claimants issuing proceedings against Finnish and English defendants in respect of industrial dispute in Finland—Industrial dispute settled by agreement—Claimants alleging that agreement void or voidable for duress—Defendants relying on Finnish jurisdiction clause in agreement—Whether English court having jurisdiction—Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters 1968, arts 6(1), 17, 21. **Carnoustie Universal SA v International Transport Workers' Federation** [2002] 2 Comm 657, QBD.

Civil and commercial matters—Negligent misstatement—Harmful event—English claimant commencing proceedings in England against Italian defendant for misrepresentation regarding goods manufactured in France—Defendant challenging jurisdiction—Whether representation made where received or where originated—Whether harmful event occurring in England—Whether English court having jurisdiction to try action in tort—Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters 1968, art 5(3). **Alfred Dunhill Ltd v Diffusion Internationale de Maroquinerie de Prestige SARL** [2002] 1 Comm 950, HL.

Consumer contracts—Claimant consumer domiciled in England—Defendant domiciled in Italy—Negotiations for supply of services taking place in Italy—Agreement concluded by fax sent to claimant in England—Contract performed in Italy—Services allegedly performed negligently and in breach of contract—Claimant issuing proceedings in English courts—Challenge to jurisdiction of English courts—Whether faxed offer document constituting specific invitation addressed to consumer—Civil Jurisdiction and Judgments Act 1982, Sch 1, arts 13, 14. **Rayner v Davies** [2002] 1 Comm 620, QBD.

Plaintiff working as solicitor for group of companies but having employment contract with Irish member of group—Plaintiff relocating from London to Madrid—Plaintiff resigning and suing for constructive dismissal in England—Spanish member of group suing plaintiff in Spain for breach of alleged employment contract—Whether English court should grant anti-suit injunction in respect of Spanish proceedings—Civil Jurisdiction and Judgments Act 1982, Sch 1, art 21. **Turner v Grovit (note)** [2002] 1 960, [2002] 1 Comm 320, HL.

Civil and commercial matters—

Contract of employment—Offshore worker—Worker performing duties in two contracting states to Brussels Convention—Worker performing part of duration of contract on installations above Netherlands continental shelf—Netherlands legislation providing that national courts having jurisdiction—Worker claiming unfair dismissal—Whether offshore work carried out on Netherlands continental shelf constituting work carried out in Netherlands—Whether worker performing work 'habitually' in Netherlands—Whether national provisions applicable—Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters 1968, art 5(1). **Weber v Universal Ogden Services Ltd (Case C-37/00)** [2002] EC 397, ECJ.

Special jurisdiction in matters relating to tort, delict or quasi-delict—'Harmful event'—French court awarding claimant damages against defendants domiciled in France for personal injuries arising from accident in France—Claimant having right under French law to bring new cause of action for further damages 'en cas d'aggravation'—Claimant's condition deteriorating while domiciled in England—Claimant bringing claim for further damages in England on basis that 'harmful event' had occurred in England—Whether 'aggravation' in French law constituting 'harmful event' for purposes of jurisdiction convention—Civil Jurisdiction and Judgments Act 1982, Sch 1, art 5(3). **Henderson v Jaouen** [2002] 2 705, CA.

Tort—

Actionability in England—

Act justifiable according to law of foreign country—Legislative decree justifying act—Operation of decree contrary to international law—Whether decree to be given effect in England—Whether actionability in foreign jurisdiction to be determined without regard to decree. **Kuwait Airways Corp v Iraqi Airways Co** [2002] 3 209, [2002] 1 Comm 843, HL.

Damages—

Assessment—Dutch national employed by Dutch company and living in Holland killed in accident while working on English-registered trawler—Deceased's partner bringing action in England on behalf of Dutch dependants for loss of dependency—Whether substantially more appropriate for damages to be assessed under Dutch law rather than English law—Fatal Accidents Act 1976, s 4—Private International Law (Miscellaneous Provisions) Act 1995, s 12. **Roerig v Valiant Trawlers Ltd** [2002] 1 961, CA.

Proper law of tort—

Negligent advice—Work essentially undertaken in Scotland and concerning building in Scotland—Advice received in England—Location of tort—Whether tort English tort or foreign tort. **Ennstone Building Products Ltd v Stanger Ltd** [2002] 2 Comm 479, CA.

CONSENT

Medical treatment—

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Guarantee. *See* **Guarantee** (Construction).

Indemnity clause. *See* **Indemnity** (Construction of indemnity clause).

Insurance contract. *See* **Insurance** (Contract of insurance—Construction of terms).

CONSTRUCTIVE TRUST

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Standard form agreement—Unfair terms—Good faith—Bank making loans to consumers under standard form regulated credit agreement—Agreement requiring borrower to pay interest after judgment at contractual rate—Whether provision for post-judgment interest subject to assessment as to fairness—Whether provision unfair—Unfair Terms in Consumer Contracts Regulations 1994, regs 3(2), 4(1). **Director General of Fair Trading v First National Bank plc** [2002] 1 97, [2001] 2 Comm 1000, HL.

Extortionate credit bargain—

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Communications between legal adviser and client—Inspector of taxes exercising statutory investigatory power to investigate tax-related scheme—Whether provision authorising inspector to require disclosure of material subject to legal professional privilege—Taxes Management Act 1970, s 20(1), (7). **R (on the application of Morgan Grenfell & Co Ltd) v Special Comr of Income Tax** [2002] 1 776, CA.

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Relief against forfeiture of lease. *See* **Landlord and tenant** (Relief against forfeiture—Arrears of rent).

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SALE OF GOODS (cont)—

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Implied condition as to satisfactory quality (cont)—

Exclusion of implied terms—Contract for supply of carbon dioxide—Contract warranting purity of carbon dioxide no less than that laid down in relevant British Standard—Contract excluding all other implied warranties—Contract limiting liability in respect of direct physical damage to property—Carbon dioxide contaminated with benzene—Contaminated carbon dioxide mixed with alcoholic concentrate and water to produce final product—Whether damage to final product direct physical damage—Whether limitation clause applicable—Whether exclusion clause reasonable—Unfair Contract Terms Act 1977, s 6. **Bacardi-Martini Beverages Ltd v Thomas Hardy Packaging Ltd** [2002] 2 Comm 335, CA.

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Murder—Whether fixing of convicted murderers' tariffs by Secretary of State compatible with convention right to have sentence fixed by independent and impartial tribunal—Crime (Sentences) Act 1997, s 29—Human Rights Act 1998, s 3, Sch 1, Pt I, art 6(1). **R (on the application of Anderson) v Secretary of State for the Home Dept** [2002] 4 1089, HL.

Murder—Whether mandatory life sentence for murder compatible with convention rights if trial judge concluding that convicted person would pose no risk to public on release—Murder (Abolition of Death Penalty) Act 1965, s 1(1)—Human Rights Act 1998, Sch 1, Pt I, arts 3, 5. **R v Lichniak** [2002] 4 1122, CA.

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Pecuniary advantage—Defendant fraudulently evading excise duty on imported goods—Customs officers seizing goods before sale—Whether defendant obtaining advantage from failure to pay duty—Criminal Justice Act 1988, ss 71, 74. **R v Smith (David)** [2002] 1 All ER 366, HL.

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Loss of or damage to goods—Limitation of liability—Cargo carried on deck in breach of contract of carriage—Contract of carriage incorporating Hague Rules—Whether owners entitled to rely on exceptions and limitation provisions of Hague Rules notwithstanding wrongful carriage on deck—Hague Rules, art IV, rr 2, 5. **Daewoo Heavy Industries Ltd v Klipriver Shipping** [2002] 2 Comm 560, QBD.

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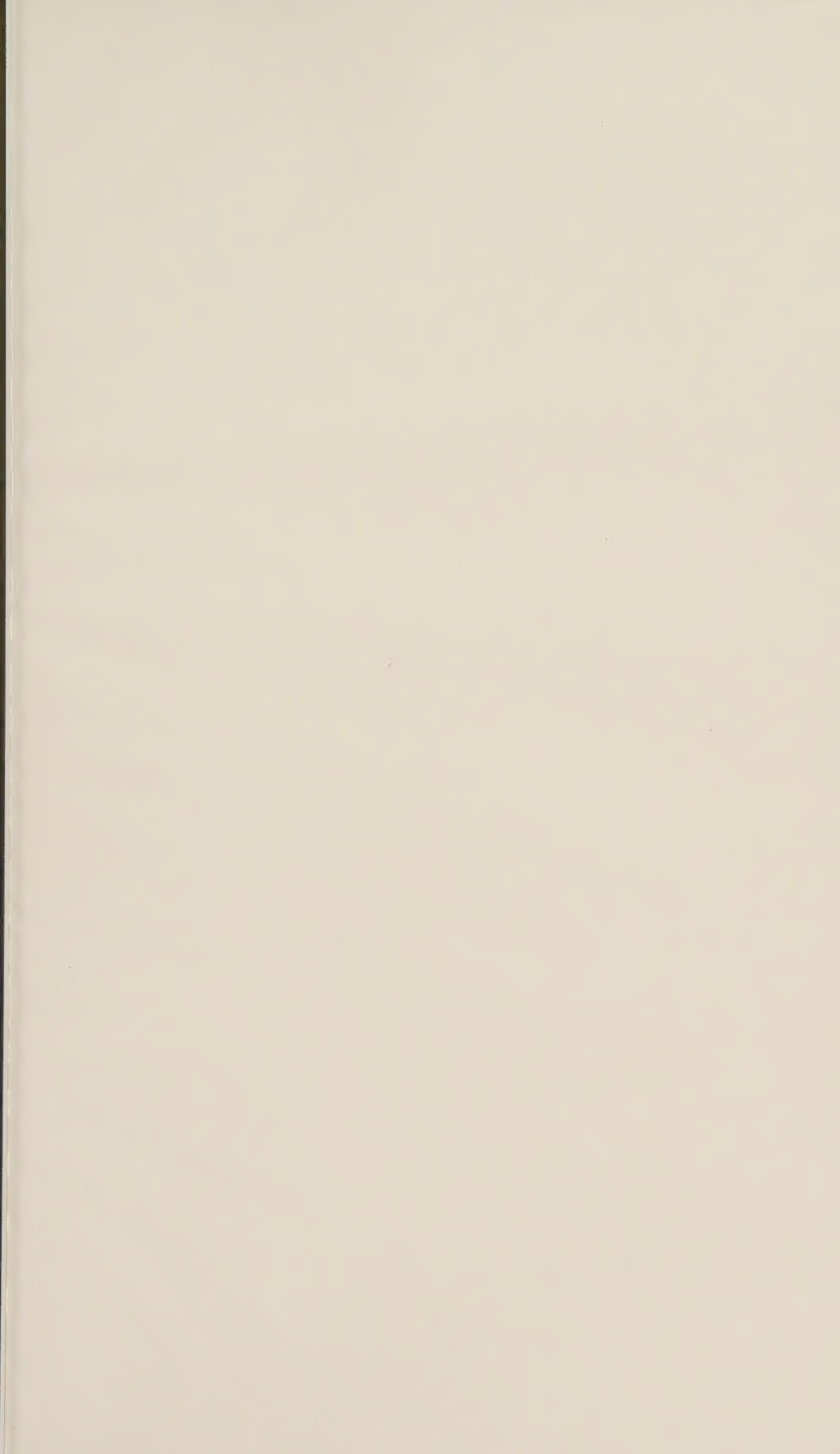
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